

# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 538**



Publication Date: October 31, 2000  
Effective Date: November 1, 2000



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Motion carried suspending all the words following “providers” in s. PSC 160.18 (10).





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## EMERGENCY RULES NOW IN EFFECT

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

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### EMERGENCY RULES NOW IN EFFECT (3)

#### Administration

1. Rules adopted creating **ch. Adm 43**, relating to public benefits fees.

#### Exemption From Finding of Emergency

(See section 9101 (1zu) (a) of 1999 Wis. Act 9)

#### Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004 (1), 16.957(2)(c) 4. and 5., and (4)(b), Stats.

Statute interpreted: s. 16.957(2)(c) 4. and 5., and (4), Stats.

1999 Wis. Act 9 included major provisions relating to aspects of electric utility regulation, commonly referred to as "Reliability 2000." That legislation created a new statutory framework within which public benefit programs relating to low-income energy assistance and energy conservation and renewable energy are continued and expanded. Under ss. 16.957(2)(c) and (4)(b), Stats., the Department of Administration is directed to promulgate rules setting fees to be collected by utilities from their customers, and establishing requirements and procedures related to those low-income and energy conservation programs. This rule provides mechanisms for setting, collecting, and reporting the fees, and related matters.

**Publication Date:** August 22, 2000  
**Effective Date:** August 22, 2000  
**Expiration Date:** January 19, 2001

2. Rule adopted creating **ch. Adm 44**, relating to energy conservation and efficiency and renewable resource programs.

#### Exemption From Finding of Emergency

(See section 9101 (1zu) (am) of 1999 Wis. Act 9)

#### Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004(1) and 16.957(2)(c), 2., 2m. and 2n., Stats.

Statute interpreted: s. 16.957(2)(b) and (3)(b), Stats.

Under s. 16.957(2)(c)2, 2m., and 2n., Stats., the Department of Administration is required to promulgate rules for energy conservation and efficiency and renewable resource public benefits programs. The rule establishes requirements, procedures and criteria to be followed by program administrators in soliciting and selecting applications for grant funding to be awarded by the Department for energy programs established under s. 16.957(2)(b), Stats.

The Department believes it is neither wise nor practical to include specific detail in this rule to cover programs that are not yet in existence. These programs will be developed over a longer period of time, with a wide range of input from the Council on Utility Public Benefits, potential program providers, and recipient citizens. They will develop as the needs of the energy efficiency and conservation market becomes clearer and our collective knowledge is increased.

Examples of the variety of programs to be created under s. 16.957 (2) (b) 1., Stats., run the gamut from a simple rebate of a few cents for the purchase of energy efficient products or services to programs requiring complete engineering audits of industrial plants, arrangement of financing, performance contracting and multi-year performance monitoring. The requirements, procedures and related selection criteria necessary to implement these varying programs cannot be specified with detail in this rule. Rather, the rule is designed to allow flexibility for development of policies and procedures through detailed policy and procedure manuals for each program, consistent with Department practice for low-income assistance programs now in effect under ss. 16.385 and 16.39, Stats.

**Publication Date:** August 22, 2000

**Effective Date:** August 22, 2000

**Expiration Date:** January 19, 2001

3. Rules adopted creating **ch. Adm 45**, relating to low-income assistance public benefits.

#### Exemption From Finding of Emergency

(See section 9101 (1zu) (am) of 1999 Wis. Act 9)

#### Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004(1) and 16.957(2) (c) 2., Stats.

Statute interpreted: s. 16.957(2) (a), Stats.

Under s. 16.957(2)(c), Stats., the Department of Administration is required to promulgate rules for low-income public benefits programs. The proposed rule establishes eligibility and application requirements and procedures for assistance under a low-income public benefits program established under s. 16.957(2)(a), Stats.

It is the Department's understanding that the Legislature's intent for this rule was to build upon and transition from the Low-Income Home Energy Assistance Program (LIHEAP) and the Low-Income Weatherization Assistance Program (LIWAP) currently administered by the Department under ss. 16.385 and 16.39, Stats., respectively. The Department presently utilizes extensive, detailed policy and procedure manuals under which those programs operate. Annual plans are also prepared for each of these programs which are submitted to the federal government as required by the U.S.

Department of Housing and Urban Development after extensive opportunities for public input, including public hearings. Because these programs, and the public benefits programs yet to be developed in concert with them under s. 16.957(2)(a), Stats., must be implemented during the heating season, they must be able to react to significant fluctuations of weather, energy costs and energy shortages in a relatively short period of time. For these reasons, this proposed rule is intentionally succinct, yet flexible in order to account for the specific needs of low-income assistance programs envisioned.

**Publication Date:** August 22, 2000  
**Effective Date:** August 22, 2000  
**Expiration Date:** January 19, 2001

## EMERGENCY RULES NOW IN EFFECT (5)

### Agriculture, Trade & Consumer Protection

1. Rules adopted revising s. ATCP 11.20 and creating ss. ATCP 11.01 (11m) and 11.73, relating to swine import and required tests.

#### Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (department) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

- Pseudorabies is a highly contagious disease of swine and other livestock. Wisconsin initiated its pseudorabies program in 1976. Since that time, the department has worked diligently, pork producers have sacrificed significantly and the state has paid substantial costs to eradicate the disease. In 1997, the National Pseudorabies Control Board recognized Wisconsin as a pseudorabies stage IV state. If there are no incidents of pseudorabies in the state before October, 2000, the state will be classified as a pseudorabies stage V state (free of the disease) at that time. Classification as a pseudorabies stage IV or V state creates significant benefits in the swine export market.

- There has been a significant increase in pseudorabies cases reported in several pseudorabies stage II and III states. In the past, Wisconsin pork producers have imported many swine from the pseudorabies stage II and III states which are now experiencing an increase in pseudorabies.

- If pseudorabies spreads to Wisconsin, the Wisconsin pork industry will be hampered in its ability to produce and export swine and pork products.

- The increased prevalence of pseudorabies in states from which Wisconsin import shipments originate creates a substantial threat to the pork industry in Wisconsin. The department finds that an emergency rule is needed to minimize the threat of pseudorabies.

**Publication Date:** May 25, 2000  
**Effective Date:** May 25, 2000  
**Expiration Date:** October 22, 2000  
**Hearing Date:** June 29, 2000  
**Extension Through:** December 20, 2000

2. Rule adopted amending s. ATCP 74.08 (1), relating to fees required of agent cities and counties that license and inspect retail food establishments.

#### Finding of Emergency

The Department of Agriculture, Trade and Consumer Protection ("department") finds that an emergency rule is necessary to promote the public welfare, and prevent unnecessary economic hardship on cities and counties that license and inspect retail food establishments for the department. The facts constituting the emergency are as follows:

(1) The department licenses and inspects retail food establishments under s. 97.30, Stats. Under s. 97.41, Stats., the

department may enter into an agreement with a city or county, under which the city or county licenses and inspects retail food establishments for the department. The department monitors and assists the agent city or county. From the license fees that it collects, an agent city or county must pay the department an annual fee to cover the department's costs. The department sets the fee by rule.

(2) By rule, the department establishes license fees for retail food establishments that it licenses directly. An agent city or county may charge a license fee that differs from the state license fee established by the department.

(3) Under current rules, an agent city or county must pay the department an annual fee, for each retail food establishment, that is equal to 20% of the license fee that the department would charge if it licensed the establishment directly.

(4) Effective February 1, 1998; the department increased license fees for retail food establishments that it licenses. The fee increase was caused, in part, by a legislative budget change that required the department to recover 60% (rather than 50%) of its program costs from license fees. The fee change approximately doubled the department's license fees, increasing the maximum retail food license fee from \$210 to \$450 and the minimum fee from \$42 to \$90.

(5) The department's 1998 license fee increase incidentally increased the annual fees that agent cities were required to pay to the department, beginning with the license year ending June 30, 1999. As a result of the department's license fee increase, agent cities and counties were required to pay the department 20% of the increased license fee amounts. This change effectively doubled city and county fee payments to the department and imposed a serious financial burden on those city and county governments. The increased fee payments also exceeded the amounts needed to cover the department's costs under agent city and agent county agreements.

(6) In order to reduce the financial burden on local governments and eliminate the department's surplus receipts, it is necessary to reduce the agent city and county percentage fee payment from 20% to 10% beginning with the license year that ends June 30, 2000. The public welfare necessitates that the department make this rule change by June 30, 2000. However, it is not possible to make this rule change by June 30 using normal rulemaking procedures. The department is, therefore, adopting this rule change by emergency rule, pending adoption by normal rulemaking procedures.

**Publication Date:** June 30, 2000  
**Effective Date:** July 1, 2000  
**Expiration Date:** November 29, 2000

3. Rules adopted creating ss. ATCP 10.21 (1m) and 10.63 (1m), relating to an implied warranty that cattle and goats are free of paratuberculosis (also known as Johne's disease).

#### Finding of Emergency

(1) Paratuberculosis, also known as Johne's disease, is an infectious and communicable disease of cattle and goats. The disease is slow to develop, and an infected animal may go for years without showing symptoms. An infected animal, which is free of symptoms at the time of sale, may spread the disease to a buyer's herd. The disease has a serious impact on milk production, and is ultimately fatal to infected animals.

(2) 1989 Wis. Act 277 established a Johne's disease "implied warranty" in the sale of cattle and goats. Under the "implied warranty" law, s. 95.195, Stats., a seller implicitly warrants to a buyer that cattle and goats are free of Johne's disease *unless* the seller complies with certain testing and disclosure requirements. If cattle or goats are infected with Johne's disease at the time of sale, and the seller has *not* complied with applicable testing and disclosure requirements, the buyer may sue the seller for damages under the "implied warranty."

(3) The "implied warranty" law protects buyers of cattle and goats, and gives sellers an incentive to test their animals for Johne's disease. A seller may avoid the "implied warranty" by testing and

disclosing. Testing is important for the ultimate control of this serious disease.

(4) 1999 Wis. Act 160 changed the “implied warranty” law, effective July 1, 2000. It changed prior testing and disclosure requirements to make the law more effective and workable. It also authorized the department of agriculture, trade and consumer protection (“DATCP”) to cover *other* diseases and animal species by rule. DATCP must implement the new law by rule. The “implied warranty” no longer applies to *any* animals or diseases (including Johnne’s disease) unless DATCP identifies those animals and diseases by rule.

(5) DATCP, the livestock industry and the Legislature intended that the new law would apply, at a minimum, to Johnne’s disease in cattle and goats. The Legislature, in a related action, appropriated \$100,000 in grant funds to help herd owners pay for Johnne’s disease testing in FY 2000–2001. DATCP has also adopted new Johnne’s disease rules for cattle and goats, in anticipation of the July 1, 2000 effective date of the new law. The new rules, contained in ss. 10.21 and 10.63, Wis. Adm. Code, clearly indicate DATCP’s understanding and intent that the new law would apply to Johnne’s disease in cattle and goats. However, the new rules are technically flawed, in that they fail to state *explicitly* that the new law applies to Johnne’s disease in cattle and goats. This emergency rule remedies that technical flaw on a temporary basis, pending the adoption of “permanent” remedial rules.

(6) This emergency rule is needed to resolve any possible challenge or uncertainty related to the coverage of the new “implied warranty” law. This emergency rule clarifies that the “implied warranty” law applies to Johnne’s disease in cattle and goats. This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease of cattle and goats, will protect buyers of cattle and goats, will promote certainty in commercial transactions, and will prevent unnecessary litigation related to the applicability of the “implied warranty” law.

**Publication Date:** June 30, 2000  
**Effective Date:** July 1, 2000  
**Expiration Date:** November 29, 2000  
**Hearing Date:** July 27, 2000

4. Rule adopted repealing s. ATCP 134.06 (3) (c) note and creating s. ATCP 134.06 (3) (d), relating to residential rental practices.

### Exemption From Finding of Emergency

On June 21, 2000, the Legislature’s Joint Committee for Review of Administrative Rules (JCRAR) found that the “note” to s. ATCP 134.06 (3) (c) is actually a rule and directed DATCP to adopt the “note” as an emergency rule. According to s. 227.26 (2) (b), Stats., DATCP must promulgate the emergency rule under s. 227.24 (1) (a), Stats., within 30 days after the JCRAR directs DATCP to do so. Because the JCRAR has directed DATCP to adopt this emergency rule, DATCP is not required to make any other finding of emergency.

### Analysis prepared by the Department of Agriculture, Trade and Consumer Protection

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state landlord–tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents.

This emergency rule modifies current residential rental practices rules related to security deposit withholding. Under current rules, a landlord may not withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible. A “note” to s. ATCP 134.06 (3) (c) also states that a landlord may not withhold from a tenant’s security

deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant neglect.

**Publication Date:** July 20, 2000  
**Effective Date:** July 20, 2000  
**Expiration Date:** December 18, 2000

5. Rules adopted creating ch. ATCP 16, relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis “non–modified accredited” state.

### Finding of Emergency

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as “accredited–free” for tuberculosis.

(3) The USDA recently reclassified Michigan from “accredited–free” to “non–modified accredited,” reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) An emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin–raised animals.

**Publication Date:** August 11, 2000  
**Effective Date:** August 11, 2000  
**Expiration Date:** January 8, 2001  
**Hearing Date:** September 19, 2000

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## EMERGENCY RULES NOW IN EFFECT (2)

### Commerce

#### (PECFA – Chs. Comm 46–47)

1. Rules adopted creating ch. Comm 46, relating to “Petroleum Environmental Cleanup Fund Interagency Responsibilities,” and relating to site contaminated with petroleum products from petroleum storage tanks.

### Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act 9)

### Analysis prepared by the Department of Commerce

Statutory authority: ss. 227.11 (2)(a) and 227.24 and s. 9110 (3yu)(b) of 1999 Wis. Act 9.

Statutes interpreted: ss. 101.143, 101.144, 292.11, and 292.31 and ch. 160

The proposed ch. Comm 46 is identical to ch. NR 746 that is being promulgated by the Department of Natural Resources.

Chapter Comm 46 provides that the Department of Natural Resources has authority for "high-risk sites" and that the Department of Commerce has authority for "low and medium risk sites." The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a "high-risk site" or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter Comm 46 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

**Publication Date:** May 17, 2000

**Effective Date:** May 18, 2000

**Expiration Date:** September 1, 2000

**Hearing Dates:** June 15, July 10 & 12, 2000

**Extension Through:** December 29, 2000

2. Rules adopted amending s. **Comm 47.53**, relating to appeals of decisions issued under the Petroleum Environmental Cleanup Act (PECFA) program.

## Finding of Emergency

The Department of Commerce finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The department is receiving funds from a bonding initiative to enable it to issue approximately 3,500 decisions on applications for PECFA funding which had been awaiting the availability of funding. Because these decisions will be issued over a very short time frame, parties receiving decisions and law firms representing them, will be required to review and analyze a large volume of decisions to determine whether they wish to appeal specific departmental decisions. Given the large number of decisions and the normal rate of appeals, it is reasonable to expect that the public will be required to prepare and file a large volume of appeals within a short time period. Attorneys, lenders and consultants representing multiple claimants have expressed concern about the workload associated with having to review decisions and draft appeals on the higher volume of decisions issued by the department within the current 30 day window. The emergency rule temporarily expands the filing period from 30 days to 90 days to provide additional time to evaluate decisions and determine whether an appeal should be filed. The rule covers the time period when the highest volume of decisions are to be issued.

**Publication Date:** February 15, 2000

**Effective Date:** February 15, 2000

**Expiration Date:** July 14, 2000

**Hearing Date:** March, 27, 2000

**Extension Through:** October 11, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Health & Family Services*

**(Community Services, Chs. HFS 30-)**

Rules were adopted creating **ch. HFS 79**, relating to state supplemental security income payments.

### Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Sections 49.77 and 49.775, Stats., authorize the Department to administer Supplemental Security Income (SSI) state supplemental payments to low income elderly and disabled residents of Wisconsin and their dependent children. These SSI payments are funded by state general purpose revenue and federal Temporary Assistance for Needy Families (TANF) grant funding in excess of \$140,000,000 per state fiscal year. These payments are distributed monthly to approximately 100,000 beneficiaries and their dependent children. Neither s. 49.77 or 49.775, Stats., direct the Department to develop administrative rules to administer the program.

An unavoidable aspect of the program is the Department's need to periodically recover payments incorrectly made to benefit recipients. Overpayments and incorrect payments occur due to delays in transmission of eligibility and pricing information between the federal Social Security Administration and the Department and are not due to the Department's error or omission. On November 24, 1999, by order of the Wisconsin Court of Appeals, District II, the Department was found, absent administrative rule, to lack the authority to administratively recoup benefits overpaid to recipients who were ineligible for the benefits or to whom the Department paid an incorrect amount of benefits. The Department sought to appeal the decision to the Wisconsin Supreme Court, but recently learned that the Supreme Court will not hear the case. The Department's inability to recover payments made in error will cost the Department about \$10,000 per month. Developing and promulgating permanent administrative rules to address the Court's decision will require at least 7 months, thereby costing the Department approximately another \$70,000. The Department deems this unanticipated expense a threat to the public welfare insofar as Wisconsin and federal taxpayers should not be called upon to shoulder the burden of these unanticipated and undeserved expenses. Therefore, the Department is promulgating this emergency rule until the Department can promulgate a similar permanent rule.

This emergency rule provides the Department with the authority to recoup benefits incorrectly paid under ss. 49.77 and 49.775, Stats., and to again effectively administer both state and federal public welfare funding. By issuing this rule, the Department will effectively recover taxpayer monies to which recipients were not entitled, pending the promulgation of permanent rules.

**Publication Date:** September 5, 2000

**Effective Date:** September 5, 2000

**Expiration Date:** February 2, 2001

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## EMERGENCY RULES NOW IN EFFECT

### *Health & Family Services*

**(Medical Assistance, Chs. HFS 101-108)**

Rules adopted revising **chs. HFS 102, 103 and 108**, relating to the medicaid purchase plan.

## Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This order creates rules that specify the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wis. Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan must be in effect before the Medicaid Purchase Plan may begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion under this section not later than January 1, 2000, or 3 months after full federal approval, whichever is later. Full federal approval was received on January 7, 2000. The Department is publishing the rules by emergency order with an effective date of March 15, 2000 to meet the expected program implementation date and the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for individuals under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible individual or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

**Publication Date:** March 15, 2000

**Effective Date:** March 15, 2000

**Expiration Date:** August 12, 2000

**Hearing Dates:** June 15, 16, 19 & 20, 2000

**Extension Through:** November 27, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Health & Family Services* (Health, Chs. HFS 110-)

Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan (HIRSP).

## Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 26, 2000 on the rules, as required by s. 149.20, Stats.

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-four percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 12.4%. Rate increases for specific policyholders range from 3.5% to 15.0%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. This increase reflects industry-wide premium increases and takes into account the increase in costs associated with Plan 1 claims. According to state law, HIRSP premiums cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market. The average 12.4% rate increase for Plan 1 is the minimum increase necessary to maintain premiums at the lowest level permitted by law.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Sixteen percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 18.2%. Rate increases for specific policyholders range from 7.5% to 21%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry-wide cost increases and adjust premiums to a level that more accurately reflects actual claim costs for Plan 2 policyholders.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1999. The

Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2000. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$10,119,482. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$9,898,358. On April 26, 2000, the HIRSP Board of Governors approved the calendar year 1999 reconciliation process and the HIRSP budget for the plan year July 1, 2000 through June 30, 2001.

**Publication Date:** June 30, 2000  
**Effective Date:** July 1, 2000  
**Expiration Date:** November 29, 2000

## EMERGENCY RULES NOW IN EFFECT (3)

### Natural Resources

#### (Fish, Game, etc., Chs. NR 1–)

1. Rules adopted revising **ch. NR 10**, relating to deer hunting in certain deer management units.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and forest resources, and to minimize deer nuisance problems, thereby protecting the public peace, health, safety and welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify the rules will result in excessively high deer populations well above established goal levels, causing substantial deer damage to agricultural lands and forest resources, and potential for disease.

**Publication Date:** May 15, 2000  
**Effective Date:** August 4, 2000  
**Expiration Date:** January 1, 2001

2. Rules adopted revising **ch. NR 10**, relating to the 2000 migratory game bird season.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify the rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**Publication Date:** September 1, 2000  
**Effective Date:** September 1, 2000  
**Expiration Date:** January 29, 2001  
**Hearing Date:** October 16, 2000

3. Rules adopted creating **s. NR 1.445** and revising **ch. NR 51**, relating to the stewardship program.

### Exemption From Finding of Emergency

Emergency rules are necessary for the department to act as authorized under s. 23.0917, Stats., as created by 1999 Wis. Act 9. According to section 9136(10g) of this Act, the department is not required to make a finding of emergency or provide evidence that promulgating this emergency rule is necessary for the preservation of public peace, health, safety or welfare. In addition, the emergency rules promulgated under this authority remain in effect until June 30, 2001, or until the date on which the corresponding permanent rules take effect, whichever is sooner.

### Analysis Prepared by the Department of Natural Resources:

Statutory authority: ss. 227.11(2), 227.24, Stats, and s. 9136 (10g), 1999 Wis. Act 9

Statutes interpreted: ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.29, 23.295, 30.24 and 30.277, Stats.

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature-based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501(c)(3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.
- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.
- Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
- Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
- Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
- Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
- Makes minor revisions to the state trails program to improve grant administration.
- Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor revisions to improve administration of the state property development grant program.
- Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.
- Clarifies and streamlines the administration of local assistance grants to governmental units.
- Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit

conservation organizations. Implements statutory changes that require that all grants issued under these programs be for nature-based outdoor recreation. Lists eligible nature-based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.

- Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.

- Makes minor revisions to improve administration of the Heritage state park and forest trust program.

**Publication Date:** September 1, 2000  
**Effective Date:** September 1, 2000  
**Expiration Date:** See section 9136 (10g), 1999 Wis. Act 9  
**Hearing Dates:** November 1 & 2, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### **(Environmental Protection – General, Chs. NR 100–)**

Rules adopted creating **ch. NR 168**, relating to the brownfield site assessment grant program administration.

### **Finding of Emergency**

This rule implements the brownfield site assessment grant program. Created in the 1999–2000 biennial state budget bill (1999 Wisconsin Act 9), the brownfield site assessment grant program provides grants to eligible local governments to cover the costs of brownfield site assessment activities such as: investigating environmental contamination of an eligible site or facility; demolishing structures located on an eligible site; removing certain abandoned containers; abating asbestos as part of demolition activities; removing underground hazardous substance storage tank systems; and removing underground petroleum product storage tank systems. Eligible local governments include cities, villages, towns, counties, redevelopment authorities, community development authorities, and housing authorities. The legislature appropriated \$1.45 million for the 99–01 biennium for these grants. Local governments are required to contribute matching funds as cash or in-kind, or both, equal to 20% of the grant. This rule limits the amount of funds that may be awarded for eligible activities. The rule specifies that 70% of available funds are to be allocated to "small" grants (i.e. a grant award between \$2,000 and \$30,000); and 30% of available funds are to be allocated to "large" grants (i.e. a grant award of more than \$30,000 but not more than \$100,000). Act 9 required that the department promulgate these rules as necessary

to administer the program, and directed the department to promulgate them as emergency rules.

**Publication Date:** July 10, 2000  
**Effective Date:** July 10, 2000  
**Expiration Date:** December 8, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### **(Environmental Protection–Investigation and Remediation, Chs. NR 700–)**

Rules adopted revising **chs. NR 700, 716, 720, 722, 726** and **creating ch. NR 746**, relating to site contaminated with petroleum products discharged from petroleum storage tanks.

### **Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act 9)**

The proposed ch. NR 746 is identical to ch. Comm 46 that is being promulgated by the Department of Commerce.

Chapter NR 746 provides that the Department of Natural Resources has authority for "high-risk sites" and that the Department of Commerce has authority for "low and medium risk sites." The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a "high-risk site" or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter NR 746 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

The amendments and new provisions that are proposed to be added to chs. NR 700, 716, 720, 722 and 726, as part of this rule package, consist of cross-references to ch. NR 746 that are proposed to be inserted in chs. NR 700, 716 and 726, and exemptions from the requirements in chs. NR 720 and 722 that would conflict with the requirements in ch. NR 746; that is, an exemption from the soil cleanup standards in ch. NR 720 and the remedial action option evaluation requirements in ch. NR 722 for those sites contaminated with petroleum products discharged from petroleum storage tanks that satisfy the risk criteria in s. NR 746.06 and are eligible for closure under s. NR 746.07.

**Publication Date:** May 17, 2000  
**Effective Date:** May 18, 2000  
**Expiration Date:** September 1, 2000  
**Hearing Dates:** June 15, July 10 & 12, 2000  
**Extension Through:** December 29, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Public Service Commission*

Rules adopted amending **s. PSC 116.03(4)** and creating **s. PSC 116.04(6)**, relating to the definition of fuel and permissible fuel costs.

### Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of "fuel" in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192(2)(a), Stats.

**Publication Date:** June 5, 2000

**Effective Date:** June 5, 2000

**Expiration Date:** November 2, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Regulation and Licensing*

Rules adopted revising **chs. RL 90 to 92**, relating to educational and examination requirements for massage therapists and bodyworkers.

### Exemption From Finding of Emergency

Section 2 of 1999 Wis. Act 98 states that the department is not required to make a finding of emergency and that the department need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules.

### Analysis Prepared by the Department of Regulation and Licensing:

Statutory authority: s. 227.11 (2), Stats., and s. 440.982 (1) (b), Stats., as amended by 1999 Wis. Act 98.

Statutes interpreted: ss. 440.03 (1) and 440.982 (1) (a) and (b), Stats.

The emergency rule revision to chs. RL 90, 91 and 92 is necessary to implement 1999 Wis. Act 98, relating to educational and examination requirements for massage therapists and bodyworkers. The rules redefine an approved course of instruction to state that a course of instruction may now be approved by the department in addition to being offered by a school approved by the Educational Approval Board under s. 45.54, Stats. Prior to 1999 Wis. Act 98, an approved course of instruction could only be offered by a school approved by the Educational Approval Board.

The rules provide that a course of instruction approved by the department is either: (1) an associate degree program, or a vocational diploma program in massage therapy or bodywork offered by a technical college, or (2) a course of instruction in massage therapy or bodywork offered by a school accredited by an accrediting agency recognized by the U.S. Department of Education, or the Commission on Massage Training Accreditation.

An approved course of instruction must also meet the minimum requirements set forth in s. RL 92.02 (5), consisting of 600 classroom hours satisfying the subject area requirements listed in that section. Additional amendments renumber those remaining sections where affected.

SECTIONS 2, 4 and 6 create definitions of accrediting agency, associate degree program and vocational diploma program.

SECTION 3 renumbers and amends a provision to allow the department to approve a course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 7 amends the introduction to s. RL 91.01, removing a reference to a section that is deleted.

SECTION 8 repeals a provision relating to a registration that is no longer offered.

SECTION 9 renumbers and amends a provision relating to an approved course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 11 renumbers and amends provisions relating to successful completion of examinations required for registration.

SECTION 13 amends a provision relating to the submitted proof pertaining to completion of an approved course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 14 repeals a reference to a formerly approved course of instruction and creates a provision that a course of instruction from a school that is not approved by the educational approval board be from a school that is either a technical college or accredited by an accrediting agency.

SECTION 15 amends provisions to require evidence that the applicant completed a course in adult cardiopulmonary resuscitation.

**Publication Date:** September 3, 2000

**Effective Date:** September 3, 2000

**Expiration Date:** January 31, 2001

**Hearing Date:** October 3, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Revenue*

Rules were adopted creating **s. Tax 9.69**, relating to the Master Settlement Agreement between the state of Wisconsin and tobacco product manufacturers.

### Exemption From Finding of Emergency

Under a nonstatutory provision in 1999 Wis. Act 122, the Department of Revenue is authorized to promulgate an emergency rule. The emergency rule is for the purpose of setting forth the requirements and methods to be used to ascertain the amount of Wisconsin excise tax paid each year on cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund or, if the department deems it appropriate, is a participating manufacturer under the Master Settlement Agreement between the state and tobacco product manufacturers. The emergency rule shall cover the period from the effective date of 1999 Wis. Act 122, May 23, 2000, to the date a permanent rule becomes effective. (Note: The department is required under s. 895.10 (4), Stats., as created by 1999 Wis. Act 122, to promulgate a rule and is required under a nonstatutory provision to submit a proposed permanent rule to the Legislative Council by September 1, 2000.)

A nonstatutory provision in 1999 Wis. Act 122 provides that the department is not required to provide a finding of emergency or to provide evidence that an emergency rule is necessary for the preservation of the public peace, health, safety or welfare.

The rule is therefore promulgated as an emergency rule without a finding of emergency and without evidence that an emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The rule shall take effect upon publication in the official state newspaper and shall apply retroactively to sales of cigarettes on or after May 23, 2000, as provided in s. 895.10 (2) (intro.), Stats., as created by 1999 Wis. Act 122. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.



**Publication Date:** August 17, 2000  
**Effective Date:** August 17, 2000  
**Expiration Date:** January 14, 2001  
**Hearing Date:** September 18, 2000

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## ***EMERGENCY RULES NOW IN EFFECT***

### ***Workforce Development***

**(Economic Support, Chs. DWD 11–59)**

Rules adopted creating s. DWD 12.28, relating to Wisconsin works disregard of year 2000 census income.

### **Finding of Emergency**

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate

preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to establish additional eligibility criteria and specify how eligibility criteria are to be administered for the Wisconsin Works (W-2) program. The department is promulgating a rule to exclude income earned from temporary employment with the U.S. Census Bureau in determining W-2 and child care eligibility and child care copayments. The rule will contribute to the welfare of the people of Wisconsin by broadening the pool of available workers to help ensure an accurate Census count, particularly in low-income neighborhoods. The rule must be effective immediately because temporary Census employment is expected to begin April 2000 and last two to six months. DWD will not be seeking a permanent rule on this issue.

**Publication Date:** April 9, 2000  
**Effective Date:** April 9, 2000  
**Expiration Date:** September 6, 2000  
**Hearing Date:** May 15, 2000  
**Extension Through:** December 31, 2000

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### ***Health and Family Services***

#### ***(Community Services, Chs. HFS 30--)***

##### **Subject:**

Ch. HFS 79 – Relating to state supplemental payments for recipients of Federal Supplemental Security Income (SSI) benefits, and certain recipients of State-provided Supplemental Security Income (SSI).

##### **Description of policy issues:**

###### *Description of objective(s):*

The objectives of the proposed rule are to create a chapter of administrative rules that guides the on-going administration of a benefit provided by the state to individuals who, because of age or disability, are eligible to receive federal supplemental security income (SSI) payments, and to continue providing payments to a group of individuals who were receiving state-only supplemental security income benefits at the time the laws relating to these benefits were changed.

*Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:*

Until now, the Department complied with the ch. 49 statutory directives by developing and using administrative policies that were not promulgated as administrative rules. The Department developed policies for the administration of the basic benefit under s. 49.77, Stats., in November 1996. The policies for the benefit for custodial parents (called the Wisconsin Caretaker Supplement Program) were developed in June 1998 and the policies regarding the exceptional payment for persons in residential care were revised in August 1995. The intent of this rule is to codify those policies without substantive change in order to meet the requirements of the Court of Appeals decision and continue operation of the benefit program. However, in *Mack v. DHFS*, 231 Wis. 2d 644, 605 N.W. 2d 651 (Ct. App 1999), the Court of Appeals ruled that the Department must promulgate administrative rules under Chapter 227, Stats., at least insofar as the recovery of overpayments to ineligible recipients. Proposed rules are currently being promulgated to replace a set of existing emergency rules that address the narrow issue of recovering overpayments to ineligible recipients. The broader rules envisioned by this statement of scope will establish standards for determining program eligibility, providing for the termination of benefits, providing notice of adverse actions, conducting appeals and providing for due process upon appeals, recovery of overpayments and related matters in the operation of this program.

The anticipated administrative rules for state supplemental payment benefits will apply to the state-only SSI cash and Medicaid benefits, the state's supplement to the federal SSI benefit, the state exceptional expense supplement benefit and the Wisconsin Caretaker Supplement Program.

The promulgation of this rule is not intended to increase or decrease the payments of any individual currently receiving one or more of these benefits, nor to increase or decrease the number of people eligible for any of these benefits.

##### **Statutory authority:**

Section 49.77, Stats., provides for the payment of state supplemental benefits to individuals who meet the resource limitations and nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d and for an additional payment for eligible recipients who reside in certain residential settings and require extensive supportive care. Section 49.775, Stats., provides for the payment of state supplemental benefits to custodial parents who are the recipients of

federal supplemental security income. In addition, the state continues to pay state-only supplemental income benefits for a group of individuals who were eligible for this benefit as of December 1995, but who do not receive a federal benefit. Section 49.77 (3s) (d), Stats., directs the Department to establish a uniform assessment process for determining eligibility for this program.

##### **Estimates of staff time and other resources needed to develop the rules:**

Estimated hours of staff time to draft the rules – 100 staff hours.

###### *Contact information:*

If you have specific questions or comments regarding the proposed rule-making, please contact:

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### ***Health and Family Services***

#### ***(Health, Chs. HFS 110--)***

##### **Subject:**

Ch. HFS 124 – Relating to hospital certificate of approval.

##### **Description of policy issues:**

###### *Description of objective(s):*

The objectives of this rule revision are to:

1. Expand applicability of ch. HFS 124 to include the satellite emergency department in the hospital's certificate of approval and address the unique circumstances surrounding a satellite emergency department in s. HFS 124.24 to ensure the health, safety and welfare of persons utilizing the services of a satellite emergency department;
2. Clarify the Department's authority to issue a statement of deficiency and require a plan of correction if a hospital is found in violation of this rule; and
3. Create and amend definitions in s. HFS 124.02 resulting from the repeal and recreation of s. HFS 124.24.

*Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:*

Existing policies. 1. *Satellite emergency departments.* To operate in this state, a hospital must have a certificate of approval from the Department's Bureau of Quality Assurance (BQA). Currently, Wisconsin has approximately 162 hospitals holding a valid certificate of approval. A certificate of approval is issued to a hospital if it complies with subch. II of ch. 50, Stats., and ch. HFS 124, administrative rules relating to hospitals. The current definition of a hospital in s. HFS 124.02 (6) and requirements in s. HFS 124.24, *Emergency Services*, do not adequately address how the Department would approve a satellite, i.e., freestanding, emergency department or the unique issues associated with operating a satellite emergency department. Requirements under existing s. HFS 124.24 for onsite emergency departments are less stringent than what is needed for a satellite emergency department because of the availability of staff and equipment to the onsite emergency department from other departments within the hospital facility. The Department needs to revise the ch. HFS 124 rules to address the different concerns presented by satellite emergency departments due to their offsite location in order to ensure the health, safety and welfare of the patients utilizing this service.

2. *Statement of Deficiency and Plan of Correction.* Under the authority in s. 50.36 (1), Stats., the Department issues statements of deficiency and a hospital subsequently prepares a plan of correction that addresses the deficiencies. Although this authority is given in statute, ch. HFS 124 currently does not specifically state the Department will issue a statement of deficiency and the hospital shall submit the plan of correction.

3. *Definitions.* The Department needs to update many of the existing definitions in existing s. HFS 124.02 and create new definitions resulting from the repeal and recreation of s. HFS 124.24. The definition of a hospital requires the most significant revision, since subchapters I to V in ch. HFS 124 were last substantially revised in February 1988. The current definition of a hospital states a “hospital may include, but is not limited to, related outpatient facilities, nurses’, interns’, and residents’ quarters, training facilities and central services facilities operated in connection with the hospital.” The definition of a hospital is outdated and needs revision to reflect the changes in the hospitals’ service delivery. Therefore, the Department is modifying its historical interpretation of the definition of a hospital to recognize its off-site facilities, specifically emergency departments.

Proposed policies. 1. *Satellite emergency departments.* The Department will propose additional requirements in s. HFS 124.24 for the satellite emergency department in the areas of administration, staffing, equipment, emergency medical service and community education and will hold any hospital opening a satellite to at least the same physical plant requirements as the “parent facility”.

2. *Statement of Deficiency and Plan of Correction.* The Department proposes to clarify the Department’s authority to issue a statement of deficiency if a hospital is found in violation of ch. HFS 124 and require a plan of correction from a hospital upon receiving the statement of deficiency. Most hospitals comply with the Department’s request for a plan of correction; however, for clarification and administrative consistency, it is important that the Department make this an administrative rule requirement.

3. *Definitions.* The Department proposes modifying the definition of a hospital to recognize hospital off-site facilities, specifically emergency departments. Establishing additional requirements for satellite emergency departments in s. HFS 124.24 necessitates that the Department amend and create definitions in s. HFS 124.02. The revision of the definition of a hospital will be the most significant revision and will require an additional definition for a “satellite emergency department”.

Alternative policies. 1. *Satellite emergency departments.* The current definition of a hospital has been interpreted by some in the industry as including a satellite emergency department. Although the Department does not agree with this interpretation, the Department has given considerable thought to the standards needed to ensure the health, safety and welfare of the patients who might use services in a satellite emergency department in an effort to not restrict industry commerce. The only alternative for hospitals that wish to open a satellite emergency department is to open another entire hospital that is separate from the existing facility.

2. *Statement of Deficiency and Plan of Correction.* The Department has not considered alternatives to issuing a statement of deficiency or plan of correction as these enforcement activities are consistent with those used by the Department for other providers it licenses, certifies and approves. Further, the use of these terms is consistent with the federal certification process for hospitals.

3. *Definitions.* The Department has not considered alternatives to creating and revising definitions because definitions are necessary to clarify Department expectations regarding satellite emergency departments.

#### **Statutory authority:**

Section 50.36 (1), Stats., which states, “The department shall promulgate, adopt, amend and enforce such rules and standards for hospitals for the construction, maintenance, and operation of the hospitals deemed necessary to provide safe and adequate care and treatment of the patients in the hospitals and to protect the health and safety of the patients and employees.”

#### **Estimates of staff time and other resources needed to develop the rules:**

An executive committee will be formed consisting of DHFS representatives from the Bureau of Quality Assurance (BQA) Director’s Office, BQA Health Services and Provider Regulation Quality Improvement Sections, Office of Legal Counsel, the Division of Public Health, the Wisconsin Health and Hospital Association (WHHA) and four physicians board-certified in emergency medicine and internal medicine. The Department anticipates approximately 25–30 hours to revise ch. HFS 124. Review of the proposed rulemaking order by industry representatives may consume an additional 20 hours.

#### *Contact information:*

If you have specific questions or comments regarding the proposed rule-making, please contact:

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### **Health and Family Services (Health, Chs. HFS 110—)**

#### **Subject:**

Ch. HFS 163 – Relating to certification for the identification, removal, and reduction of lead-based paint hazards and the issuance and registry of certificates for property that meet lead-free or lead-safe standards.

#### **Description of policy issues:**

##### *Description of objectives:*

Under 1999 Wis. Act 113, a property owner and his or her agent and employees are immune from civil or criminal liability for their acts or omissions related to lead poisoning or lead exposure of a person if a valid certificate of lead-free or lead-safe is in effect for the dwelling or unit at the time the lead poisoning or lead exposure occurs. Section 27 of 1999 Wis. Act 113 creates s. 254.179, Stats., which requires the Department of Health and Family Services to review local ordinances and, using research-based methodology, promulgate rules to establish the standards and procedures for issuing and registering certificates of lead-free and lead-safe status and to implement training for property owners, their agents and their employees. In addition, it provides authority to write rules for the lead-safe demolition of buildings built before 1978. These activities are intended to reduce the incidence of childhood lead poisoning while also improving the condition of housing stock in Wisconsin.

The addition of other lead-based paint disciplines also will be considered to promote the conduct of long-term lead-based paint hazard reduction by individuals who are adequately trained in lead-safe work practices. The U.S. Environmental Protection Agency and the U.S. Department of Housing and Urban Development are developing training for sampling technicians and lead-safe renovation and remodeling. States are being asked to consider adding these disciplines.

*Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:*

History of Program. Chapter 254, Stats., provides for a comprehensive lead hazard reduction program, including: lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. The Asbestos and Lead Training Accreditation and Certification Program administers and enforces lead-based paint training, certification and work practice provisions. The program operates on a combination of program revenue and lead program development grants from the U.S. Environmental Protection Agency (EPA). Wisconsin met federal standards for a state-administered lead training and certification program and received EPA authorization effective January 27, 1999.

**Current Certification Requirements.** A person offering, providing or supervising a lead-based paint activity for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform lead-based paint activities when certification is required. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Safety and Health Administration (OSHA) for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16-hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16-hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8-hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24-hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16-hour lead (Pb) risk assessor course.

**Rules to be Created Under S. 254.179, Stats.** The Department of Health and Family Services will review local ordinances and, using research-based methodology, promulgate as rules all of the following:

1. Standards a premises, dwelling, or unit of a dwelling must meet to qualify for a certificate of lead-free or lead-safe status. Such standards must have a goal of long-term lead-based paint hazard reduction.
2. The procedures by which a certificate of lead-free or lead-safe status may be issued or revoked.
3. The period of validity of a certificate of lead-free or lead-safe status.
4. A mechanism for creating a registry of property for which a certificate of lead-free or lead-safe status has been issued.
5. Requirements for a course of up to 16 hours that a property owner or his or her agent or employee may complete in order to receive certification of completion.
6. The scope of the lead investigation and lead hazard reduction activities that a property owner or his or her agent or employee may perform following certification, to the extent consistent with federal law.
7. Work practices for the lead-safe demolition of buildings built before 1978.

**Rules to be Created Under SS. 254.172, 254.176 and 254.178, Stats.** Subject to approval by the U.S. Environmental Protection Agency, training and certification requirements for new disciplines will be considered for people performing: maintenance, renovation and remodeling; lead-based paint hazard reduction; or lead investigation activities on property for which a certificate of lead-free or lead-safe status is in effect or being sought.

#### **Statutory authority:**

Sections 254.167 to 254.181, Stats., as created and amended by 1999 Wis. Act 113 (Assembly Bill 806).

#### **Estimates of staff time and other resources needed to develop the rules:**

The Department anticipates needing approximately 960 hours of Asbestos and Lead Section staff time to develop the rules in preparation for Department review. In addition, 1999 Wis. Act 113, s. 254.174, Stats., requires the Department to consult a technical advisory committee on the proposed registry rules. The Department expects this committee to meet 4-6 times during the development of the draft rules.

#### **Contact information:**

If you have specific questions or comments regarding the proposed rule-making, please contact:

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### **Insurance, Commissioner of**

#### **Subject:**

SS. Ins 17.01 (3) and 17.28 (6) – Relating to annual Patients Compensation Fund and Mediation Fund fees for fiscal year beginning **July 1, 2001**.

#### **Description of policy issues:**

*A statement of the objective of the proposed rule:*

The objective of the proposed rule is to establish the annual fees which participating health care providers must pay to the Patients Compensation Fund as required by statute for the fiscal year beginning **July 1, 2001**.

*A description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

Existing policies are as set forth in the statutes cited in the next section and in the rules themselves; no new or alternate policies are contemplated at this time.

#### **A statement of the statutory authority for the rule:**

Sections 601.41 (3), 655.004, 655.23 (3) (b), (c) and (4), 655.27 (3) and 655.61, Stats.

#### **An estimate of the amount of time state employees will spend to develop the rule and a description of other resources necessary to develop the rule:**

40 hours estimated state employee time to promulgate these rules; other resources will include the review and recommendation of the Board's actuarial committee, based on the analysis and recommendations of the fund's actuaries and the Director of State Courts.

#### **Contact information:**

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### **Natural Resources**

#### **(Fish, Game, etc., Chs. NR 1--)**

#### **Subject:**

NR Code – Relating to fishing regulation changes for the 2001 spring fish and wildlife hearings.

#### **Description of policy issues:**

*Subject of the administrative code action/nature of Board action:*

Fishing regulation changes for the 2001 spring fish and wildlife hearings. The anticipated effective dates of the proposed rule changes will vary depending on the urgency of the rules and the affected fishing seasons, but will either be **January 1, 2002** or **April 1, 2002**.



*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

Not known at this time.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Generally, proposed rule changes represent a change in policy (i.e., administrative rules).

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

**Statutory authority for the rule:**

Section 29.014, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 258 hours. Public hearings will be scheduled for April 2001 in every county of the state (72 locations).

*Contact information:*

For additional information, please contact:

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Bureau of Fisheries Mgmt. and Habitat Protection  
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**Natural Resources**

**(Fish, Game, etc., Chs. NR 1--)**

**Subject:**

Chs. NR 5 and 50 – Relating to the boating safety and enforcement programs [Board Order No. LE-01-01].

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The testing procedures for testing motorboat noise were recently changed and a sentence was inadvertently left in that does not apply. Definitions for the terms “boat” and “water skis, aquaplane or similar device” are created to further interpret statutes. These issues are contained within ch. NR 5, Wis. Adm. Code. These changes are not controversial.

Two changes impacting municipal boat patrols and municipal boating ordinances could be more controversial and may need additional public hearings. The DNR proposes to clarify a 40% cap on local units of government for receiving reimbursement for administrative time for operating boat patrols and to create standards for municipal boating ordinances drafted under s. 30.77, Stats.

Owners of motorboats that do not meet statutory noise requirements and municipalities that conduct municipal boat patrols or draft local boating ordinances will be affected by the rule.

This rule/Board action represents a change from past policy.

*How the proposed rule affects existing policy:*

The proposed definition of “boat” would require registration of fishing rafts that are motorized, to be consistent with federal requirements.

*Explain the facts that necessitate the proposed change.*

The creation of the definitions listed above is necessary to be consistent with federal requirements and to keep up with technological and equipment changes in the sport of waterskiing.

The 40% cap on administrative time to operate a municipal boat patrol would clarify the original statutory intent and conform with existing Department policy.

Currently the Department has no standards codified to provide guidance to municipalities for the drafting of boating ordinances.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

*Environmental analysis:*

This is a type III action and does not require an environmental analysis.

**Statutory authority for the rule:**

Sections 30.505, 30.62 (2) (d) 2., and 30.79 (2m), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 15 hours. One public hearing is proposed to be scheduled during March 2001 in Madison, Wisconsin.

*Contact information:*

For additional information, please contact:

Bureau of Law Enforcement  
Dept. of Natural Resources  
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**Natural Resources**

**(Fish, Game, etc., Chs. NR 1--)**

**Subject:**

NR Code – Relating to trapping and hunting regulations (annual housekeeping order).

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

This order proposes minor changes to the hunting and trapping rules and allows landowners to harass or disturb protected wild animals to relieve a damage or nuisance situation.

The Department proposes the following housekeeping rule changes:

1. In s. NR 10.103 – Eliminates the requirement of having to keep deer hunting back and carcass tags attached prior to harvesting a deer.

2. In s. NR 10.13 (1) (b) 11. – Eliminates the requirement of having both the mink and muskrat seasons open before trappers can use smaller traps (less than 5 1/2 inch spread for foot holds and 6 3/4 inch for conibear traps).

3. In ss. NR 12.10 (1) (b) 4s. and 19.25 – Allows landowners to harass waterfowl to relieve a damage or nuisance situation in urban areas and golf courses.

This rule/Board action does not represent a change from past policy.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. It is an adoption of federal requirements that do not include or allow for pollution prevention.

**Statutory authority for the rule:**

Section 29.014, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 185 hours. One public hearing is proposed to be scheduled during March 2001 in Madison, Wisconsin.

*Contact information:*

For additional information, please contact:

Bureau of Wildlife Management  
Dept. of Natural Resources  
Telephone: (608) 266-8204  
FAX: (608) 267-7857

## ***Natural Resources***

### ***(Fish, Game, etc., Chs. NR 1--)***

#### **Subject:**

Chs. NR 1, 10, 11, 16, 17 and 45 – Relating to trapping and hunting regulations (2001 spring hearing questionnaire).

#### **Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The Department is initiating the annual rule development cycle for the 2001 spring fish and wildlife hearings. These proposals will come before the Natural Resources Board in January 2001 for approval to hold public hearings, to be held in conjunction with the Conservation Congress Spring Meetings in April 2001. The effective dates of these rules, promulgated, will vary depending on the urgency and program time lines.

1. In s. NR 1.16 (2) – Updates our Natural Resources Board policy on furbearers.

2. In ss. NR 10.001 (11) and 10.101 – Defines an adult bear and prohibits the shooting of an adult bear that is accompanied by a bear that is not an adult bear.

3. In s. NR 10.01 (1) (g) 1h., 2h. and 3h. – Restructures the Collins Zone by splitting the season into 3 time periods rather than the current 4 zones.

4. In ss. NR 10.01 (2) (f) 3. and 10.29 (2) – Allows spring turkey hunting in Mill Bluff State Park.

5. In s. NR 10.01 (3) – Restricts buck harvest to one buck per hunter per year.

6. In ss. NR 10.01 (3) (e) 3. and 10.27 (7) – Allows hunting deer during the firearm, muzzleloader and late bow deer hunting seasons in Mill Bluff State Park.

7. In s. NR 10.01 (3) (e) 6. and (em) 3. – Simplifies metro deer hunting by making all season frameworks consistent.

8. In s. NR 10.101 – Allows bear hunters to replace tired, young, etc., dogs in the pack should they drop out of a hunt.

9. In s. NR 10.105 – Eliminate the requirement of having to transport deer and bear in an open and exposed manner prior to registration.

10. In s. NR 10.13 (1) (b) 4. and 5. – Allow the use of commercially-manufactured, enclosed trigger traps within 15 feet of beaver dams and during closed seasons for muskrat, beaver and otter.

11. In s. NR 10.27 (3) – Extend the bow season in Buckhorn State Park one month (through December).

12. In s. NR 10.29 (1) – Adds two turkey management zones.

13. In s. NR 11.011 – Closes Mecan Springs to hunting and trapping during all open waterfowl seasons.

14. In s. NR 16.02 (1) and (7) – Prevents wild turkey game farms from being established in the wild turkey management zones.

15. In s. NR 17.02 (3) (e) and (4) (e) – Requires captive wild birds used for dog training to be marked with Department leg bands prior to release.

16. In ss. NR 17.02 (4) (b) 2. and 45.09 (5) – Adds Brown, LaCrosse, Oconto, Outagamie and Winnebago counties to the list of counties where target shooting on state-owned lands is illegal unless at designated target ranges.

This rule/Board action represents a change from past policy.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. It is an adoption of federal requirements that do not include or allow for pollution prevention.

#### **Statutory authority for the rule:**

Section 29.014, Stats.

#### **Anticipated time commitment:**

The anticipated time commitment is 255 hours. There will be 72 public hearings held in every county statewide on April 9, 2001. There will also be 12 hearings held on April 17, 2001 for local questions.

#### **Contact information:**

For additional information, please contact:

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Dept. of Natural Resources  
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## ***Natural Resources***

### ***(Environmental Protection--Investigation and Remediation of Environmental Contamination, Chs. NR 700--)***

#### **Subject:**

Ch. NR 726 – Relating to the application of deed restrictions and deed notices to closure of contaminated properties with residual soil contamination.

#### **Description of policy issues:**

*Subject of the administrative code action/nature of Board action:*

Chapter NR 726, Case Closure, regarding the application of deed restrictions and deed notices to closure of contaminated properties with residual soil contamination.

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The rule change is being proposed in response to public comments on ch. NR 746. The comments requested that the Department clarify the criteria for applying deed notices and deed restrictions to contaminated properties where residual soil contamination remains after site closure. This rule change will help ensure consistent application of deed restrictions and deed notices by staff at the Department of Natural Resources and the Department of Commerce. The rule change will also affect owners of contaminated property by clearly establishing the type of institutional control that will be used by the agencies at the time of closure.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Currently, deed restrictions and deed notices are placed on contaminated properties with residual soil contamination largely at the discretion of agency staff. Chapter NR 726 currently requires deed restrictions only for properties with groundwater contamination above ch. NR 140 enforcement standards and for properties with soil contamination above industrial cleanup standards. The proposed rule change will establish specific criteria for applying soil deed restrictions and soil deed notices. Eventually, the agency intends that the GIS system currently under development for groundwater use restrictions will be expanded to include sites with soil contamination. When the GIS system is developed enough to include soil-contaminated sites, listing on a publicly-available database will replace soil deed notices. A separate rule agenda checklist will be submitted for that rule-making in mid-2001.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

The rule affects contaminated properties that have been investigated and remediated to the point that site closure can be approved.

#### **Statutory authority for the rule:**

Sections 227.11 (2) (a), 292.11 and 292.31, Stats.

#### **Anticipated time commitment:**

The anticipated time commitment is 152 hours. Three public hearings are proposed to be scheduled in February 2001 at Madison, Milwaukee and Wausau.

*Contact information:*

For additional information, please contact:

Bureau of Remediation and Redevelopment  
Dept. of Natural Resources  
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***Pharmacy Examining Board*****Subject:**

Phar Code – Relating to transfer of prescription orders for noncontrolled substances.

**Description of policy issues:***Objective of the rule:*

The objective of the rule is to permit an unlimited number of transfers between pharmacies. The modification would apply only to the transfer of prescription orders for noncontrolled substances. Federal law prohibits more than a one-time transfer of prescription orders for controlled substances.

*Policy analysis:*

The current “one-time transfer” rule creates undue inconvenience and expense for the consumer. There does not appear to be any adequate reason to prohibit the prescription order from “following” the consumer. The Board believes the current rule is unduly burdensome and restrictive in light of today’s mobile society. As long as appropriate procedures set forth in the rule are followed between the pharmacies, permitting unlimited transfers of prescription orders is consistent with the health, safety and welfare of consumers.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 450.02(3) (a) and (e), Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

100 hours.

*Contact information:*

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***Social Workers, Marriage and Family  
Therapists and Professional Counselors  
Examining Board*****Subject:**

SFC Code – Relating to requiring that supervision of precertification supervised practice of social work be approved in advance by the Social Worker Section.

**Description of policy issues:***Objective of the rule:*

The objective of the rule is to require a person contemplating supervision by a person other than an independent clinical social worker to obtain approval by the Social Worker Section in advance of the supervision period.

*Policy analysis:*

Currently, there is no requirement for advance approval of supervisors. The rule permits supervision by a psychologist or a psychiatrist “if the social worker section determines that supervision by a certified social worker is unobtainable or unreasonably restrictive of the delivery of social work services to a particular population, or unduly interferes with training social workers in providing services to a particular population.” Different interpretations of that language have led to misunderstandings. To avoid situations, advance approval of supervisors other than independent clinical social workers will be required.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

80 hours.

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Mailing address:

Office of Administrative Rules  
Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

***Social Workers, Marriage and Family  
Therapists and Professional Counselors  
Examining Board*****Subject:**

SFC Code – Relating to permitting the Social Worker Section to consider any criminal or disciplinary background by an applicant for a social work training certificate.

**Description of policy issues:***Objective of the rule:*

The objective of the rule is to require a person applying for a social work training certificate to supply information about any prior disciplinary history and to grant authority to the Section to deny an application based on a relevant disciplinary history or a criminal history substantially related to the profession.

*Policy analysis:*

Currently, there is a requirement that an applicant for a social work training certificate supply information about any criminal history. The rule does not specifically authorize the consideration of that information in the decision to grant a training certificate, nor does it require an applicant to provide any relevant disciplinary history.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

80 hours.

*Contact information:*

For additional information, please contact:

Pamela Haack, Adm. Rules Coordinator  
Dept. of Regulation and Licensing  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

*Mailing address:*

Office of Administrative Rules  
Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

### ***Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board***

**Subject:**

SFC Code – Relating to clarifying that a professional counselor training certificate is available only to persons during a period of supervised practice.

**Description of policy issues:***Objective of the rule:*

The objective of the rule is to conform the existing rules to present practices and to other rules.

*Policy analysis:*

The proposed amendment is offered to implement the existing interpretation of a rule and to clarify the limited circumstances in which a professional counselor training certificate is available.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

75 hours.

*Contact information:*

For additional information, please contact:

Pamela Haack, Adm. Rules Coordinator  
Dept. of Regulation and Licensing  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

*Mailing address:*

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Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

### ***Tobacco Control Board***

**Subject:**

Ch. TCB 1 – Relating to establishing criteria for recipients of grants awarded by the Tobacco Control Board.

**Description of policy issues:***Description of objective(s):*

These rules will establish criteria, procedures, requirements and conditions for the award of project grants to organizations that operate or propose to operate programs aimed at preventing youth tobacco use, promoting tobacco cessation, and eliminating environmental tobacco smoke.

The Tobacco Control Board is statutorily directed to establish these rules to guide the Board's administration and distribution of tobacco control grants.

*Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:*

The Tobacco Control Board is responsible for administering a grant program under s. 255.15 (3), Stats. The Board is responsible for administering a grant program for the purpose of preventing youth tobacco use, promoting tobacco cessation, and eliminating second-hand smoke. The Board is also responsible for other efforts to address the health and economic costs of tobacco use in populations most adversely affected by the use of tobacco. Wisconsin currently has a rate of youth tobacco use higher than the national average, with 38% of high school youth reporting smoking a cigarette in the last month. In addition, the smoking rate among pregnant women is 30% higher than the national average. The Board will support ongoing state and local comprehensive efforts to prevent and stop tobacco use.

Section 255.15 (3) (a), Stats., directs the Board to fund specific existing efforts in the state. In addition, s. 255.15 (3) (b), Stats., authorizes the Board to distribute grants for any of the following:

- Community-based programs to reduce tobacco use.
- Community-based programs to reduce the burden of tobacco-related diseases.
- School-based programs relating to tobacco use cessation and prevention.
- Enforcement of local laws aimed at reducing exposure to secondhand smoke and restricting underage access to tobacco.
- Grants for partnerships among statewide organizations and businesses that support tobacco use cessation and prevention.
- Marketing activities that promote tobacco use cessation and prevention.
- Projects designed to reduce tobacco use among minorities and women.
- Other tobacco use cessation programs.
- Surveillance of indicators of tobacco use and evaluation of the activities funded under s. 255.15, Stats.
- Development of policies that restrict access to tobacco use and reduce exposure to environmental tobacco smoke.

The anticipated rules will establish criteria for recipients' use of grants made by the Board, including performance-based standards for grant recipients proposing to use grants for media efforts. The rules also may address criteria for applicants' eligibility for grants, the application and selection processes, and restrictions on grants. The Board will add or delete these parameters based on best practices as defined by activities within and outside of Wisconsin.

**Statutory authority:**

Section 255.15 (1) (c), Stats.

**Estimates of staff time and other resources needed to develop the rules:**

The Board anticipates that these rules should consume about 40 hours of staff time to develop and an additional 40 hours to promulgate. David F. Gundersen will be the Board staff involved in developing the rules, in addition to attorneys from the Department of Health and Family Services, Office of Legal Counsel.

*Contact information:*

If you have specific questions or comments regarding the proposed rule-making, please contact:

Larry Hartzke  
Administrative Rules Manager  
Dept. of Health and Family Services  
Telephone: (608) 267-2943  
Email: [hartzlr@dhfs.state.wi.us](mailto:hartzlr@dhfs.state.wi.us)  
TTY: (608) 267-7371



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## SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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### Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

*Please check the Bulletin of Proceedings for further information on a particular rule.*

#### **Dentistry Examining Board**

##### **Rule Submittal Date**

On October 10, 2000, the Dentistry Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority: ss. 15.08 (5) (b), 227.11 (2), 447.04 (1) (a) 6. and (2) (a) 6., Stats.

The proposed rule-making order relates to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held in January, 2001.

##### **Contact Information**

If you have questions, please contact:

Pamela Haack  
Administrative Rules Coordinator  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

##### **Mailing Address:**

Office of Administrative Rules  
Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

#### **Regulation and Licensing**

##### **Rule Submittal Date**

On October 6, 2000, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority: ss. 227.11 (2) and 440.974, Stats.

The proposed rule-making order affects ss. RL 133.01, 133.02 and 135.02, relating to home inspector examination and continuing education requirements.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held on Monday, November 13, 2000 at 11:00 a.m. in Room 179A at 1400 East Washington Ave., Madison, Wisconsin.

##### **Contact Information**

If you have questions, please contact:

Pamela Haack  
Administrative Rules Coordinator  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

##### **Mailing Address:**

Office of Administrative Rules  
Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

#### **Veterinary Examining Board**

##### **Rule Submittal Date**

On October 11, 2000, the Veterinary Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1), Stats.

The proposed rule-making order affects ch. VE 3 and ss. VE 2.01, 2.03, 4.01 and 5.03, relating to the computerized veterinary examination.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held on Monday, November 27, 2000 at 11:15 a.m. in Room 179A at 1400 East Washington Ave., Madison, Wisconsin.

##### **Contact Information**

If you have questions, please contact:

Pamela Haack  
Administrative Rules Coordinator  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

##### **Mailing Address:**

Office of Administrative Rules  
Dept. of Regulation and Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

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# NOTICE SECTION

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## Notice of Hearing

### *Health and Family Services*

### *(Community Services, Chs. HFS 30--)*

### *[CR 00-134]*

Notice is hereby given that pursuant to ss. 46.056 (1) and 227.11 (2), Stats., the Department of Health and Family Services will hold a public hearing to outline the revisions in procedures for the resolution of complaints of inmates of the Wisconsin Resource Center (WRC), contained in ch. HFS 97.

### **Hearing Information**

The public hearing will be held as follows:

<u>Date &amp; Time</u>	<u>Location</u>
November 20, 2000 Monday 10:00 a.m.	Conference Room B145 State Office Building One West Wilson St. MADISON, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

### **Analysis Prepared by the Dept. of Health and Family Services**

This order revises procedures for the resolution of complaints of inmates of the Wisconsin Resource Center.

Effective January 1, 1990, the Department's former Division of Corrections became the Wisconsin Department of Corrections, but the Wisconsin Resource Center (WRC), even though a correctional institution, remained under the administration of the Department's Division of Care and Treatment Facilities. The WRC provides psychological evaluations, specialized learning programs, training and supervision for inmates transferred from other correctional institutions because of serious behavioral problems they have exhibited at their institutions, and whose mental health programming needs can be met by the WRC.

In 1990, the Department of Corrections established a process by which inmates of adult correctional institutions may file complaints and have them expeditiously investigated and decided. The procedures are specified in ch. DOC 310.

Periodically, inmates are transferred for treatment to the WRC. Occasionally, an inmate transferred to WRC will have an outstanding grievance that was initiated when the inmate was at the inmate's DOC facility. In addition, an inmate receiving treatment at the WRC may initiate a grievance while at WRC. To ensure continuity of the handling of grievances between DHFS and DOC, since 1990 the Department has maintained an inmate complaint resolution process in ch. HFS 97 that is virtually the same as that specified by the Department of Corrections in ch. DOC 310.

Effective May 1, 1998, the Department of Corrections sought to improve how its inmate complaint review system works by significantly modifying ch. DOC 310. The changes included the following:

- Permitting institution complaint examiners to reject complaints they determine are frivolous.
- Limiting the number of complaints an inmate may file to 2 complaints in a calendar week.
- Requiring the Department to make the written complaint procedures available to all inmates.
- Permitting the institution complaint examiner to accept late complaints for good cause.
- Generally prohibiting inmates from using language that is profane, obscene, abusive or threatens others when filing a complaint.
- Permitting the Secretary to extend the timelines for cause and upon notice to the inmate and all interested parties.
- Permitting the Department to reveal the identity of complainants and the nature of the complaints to the extent reasonable and appropriate for thorough investigation and implementation of the remedy.
- Removing language that permits the corrections complaint examiner to order an evidentiary hearing.

- Requiring that all records of an inmate complaint be kept for at least 3 years after disposition of the complaint.

Given that the Department of Corrections made a variety of changes to its grievance process in 1998, DHFS is proposing to make comparable changes to ch. HFS 97 so that ch. HFS 97 is, once again, consistent with ch. DOC 310. These revisions to ch. HFS 97 will ensure that the same process will be available to inmates, whether they are at a Department of Corrections institution or at the WRC.

## ***Copies of Rule and Contact Information***

To find out more about the hearing or to request a copy of the proposed rules, please write or phone:

Linda Harris  
Division of Care and Treatment Facilities, Room 850  
P.O. Box 7851  
Madison, WI 53707-7851

Telephone: (608) 267-7909 or,  
if you are hearing impaired, (608) 266-1511 (TTY)

To comment on or discuss the content of the proposed rule, please write, e-mail or phone:

Steve Spanbauer  
Wisconsin Resource Center  
1505 North Drive  
P.O. Box 16  
Winnebago, WI 54985-0016

Telephone : (920) 426-4310  
[Email:spanbs@dhfs.state.wi.us](mailto:spanbs@dhfs.state.wi.us)

If you are hearing- or visually-impaired, do not speak English, or have other personal circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter, or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

## ***Written Comments***

Written comments on the proposed rule received at the above address no later than **Friday, November 24, 2000** will be given the same consideration as testimony presented at the hearing.

## ***Fiscal Estimate***

This rule revises the inmate complain process at the Wisconsin Resource Center. Any costs associated with changes in the process will be absorbed within existing resources at Wisconsin Resource Center. There will be no fiscal effect as a result of this rule.

## ***Initial Regulatory Flexibility Analysis***

The rule changes will not affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

## ***Notice of Hearings***

### ***Natural Resources***

***(Fish, Game, etc., Chs. NR 1 –)***

Notice is hereby given that pursuant to ss. 29.014, 29.889 and 227.11, Stats., interpreting ss. 29.177, 29.181, 29.361 and 29.889, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 1, 10, 12 and 19, Wis. Adm. Code, relating to deer hunting and the wildlife damage abatement and claims program. The following proposals would establish a new deer season framework for 2001 and beyond:

1. Create a permanent 4-day December antlerless deer season.
2. Begin the early archery season on the Saturday closest to September 15.
3. End the early archery season on the Thursday before Thanksgiving.

4. Begin the late archery season on the Monday after Thanksgiving.
5. End the late archery season on the Saturday closest to January 15.
6. Extend the muzzleloader season by 3 days.
7. Establish a one-day youth gun deer hunt the Saturday closest to October 24.

The proposed rule also establishes a statewide protocol for deer herd control seasons as follows:

1. Adds a 4-day antlerless only gun season beginning on the Thursday nearest October 22 if the season structure outlined above is not expected to bring a deer herd within 20% of the established population goal for a deer management unit.
2. Adds a earn-a-buck requirement to the season structure after 2 years of herd control seasons if the season structure outlined above is not expected to bring a deer herd within 20% of the established population goal for a deer management unit.
3. Eliminates the requirement of public meetings in the affected units and Natural Resources Board approval.
4. Expands the herd control authority from only farmland units to all deer management units.

The proposed rule adds criteria to be considered by the Department when establishing deer population goals for deer management units including:

1. Hunter success in harvesting and seeing deer and public deer viewing opportunities, hunter access to private land, and ability to keep herds in a deer management unit at goal are factors to be considered when establishing goals. These additional criteria along with the 6 current criteria in s. NR 1.15(2) would be considered when establishing deer population goals.
2. Establishes tolerable standards of agricultural damage and requires the Department to reduce goals when damage exceeds the standards for 2 of 3 years between unit reviews, when the herd was at goal, during the review period, unless a goal reduction is not expected to alleviate intolerable levels of deer damage.

Finally, the proposed rule involves modifications to the current wildlife damage and abatement claims program that require farmers enrolled in the wildlife damage and abatement claims program in a given year who experience \$1,000 or more damage in that year be automatically issued a shooting permit by January 31 the following year. They are then required to meet a harvest objective of 80% of the harvest quota by September 15 in order to qualify for benefits of the wildlife damage abatement and claims program in the following year.

### ***Initial Regulatory Flexibility Analysis***

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have a significant economic impact on small businesses.

### ***Environmental Assessment***

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

### ***Hearing Information***

Notice is hereby further given that the hearings will be held on:

<b>December 4, 2000</b> <b>Monday</b> at 7:00 p.m.	<b>Basement Meeting Room</b> <b>DNR Spooner Service Center</b> 810 W. Maple Spooner
<b>December 4, 2000</b> <b>Monday</b> at 7:00 p.m.	<b>Basement Meeting Room</b> <b>Best Western Royale</b> 5110 Main Street Stevens Point
<b>December 5, 2000</b> <b>Tuesday</b> at 7:00 p.m.	<b>DNR Western Region Hdqrs.</b> 1300 W. Clairemont Ave. Eau Claire
<b>December 5, 2000</b> <b>Tuesday</b> at 7:00 p.m.	<b>Fireside Room</b> <b>Nicolet Area Tech College</b> <b>University Transfer Center</b> <b>County Highway G</b> <b>Rhineland</b>

December 11, 2000 Monday at 7:00 p.m.	Gymnasium Pembine High School N18775 Sauld Street Pembine
December 11, 2000 Monday at 7:00 p.m.	Public Library 124 W. Main Street Sparta
December 12, 2000 Tuesday at 7:00 p.m.	Downstairs Meeting Room Brown Co. Library 515 Pine St. Green Bay
December 12, 2000 Tuesday at 7:00 p.m.	DNR Janesville Service Center 2514 Morse Road Janesville
December 13, 2000 Wednesday at 7:00 p.m.	Room C101 1500 N. University Drive UW-Waukesha Waukesha
December 13, 2000 Wednesday at 7:00 p.m.	Public Library 502 Main Street West Ashland
December 14, 2000 Thursday at 7:00 p.m.	DNR Dodgeville Service Center 1500 N. Johns Street Dodgeville
December 14, 2000 Thursday at 7:00 p.m.	Public Library 32 Sheboygan Street Fond du Lac

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call William VanderZouwen at (608) 266-8840 with specific information on your request at least 10 days before the date of the scheduled hearing.

### ***Written Comments and Contact Information***

Written comments on the proposed rule may be submitted to Mr. William VanderZouwen, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **December 15, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-40-00] and fiscal estimate may be obtained from Mr. VanderZouwen.

### ***Fiscal Estimate***

1. This administrative rule package includes the following proposals to change the current deer season framework:

- Create a permanent 4-day December antlerless deer season.  
Begin the early archery season on the Saturday closest to September 15.  
End the early archery season on the Thursday before Thanksgiving.
- Begin the late archery season on the Monday after Thanksgiving.
- End the late archery season on the Saturday closest to January 15.
- Extend the muzzleloader season by 3 days.
- Establish a one-day youth hunt the Saturday closest to October 24.

2. The rule package also includes proposals that would bring more predictability to herd control seasons:

- Create two new criteria for determining deer population goals.

- Allow the Department to modify the deer hunting season where normal seasons and permits are not expected to bring a deer population to within 20% of a unit's population goal.

Establish a formula for establishing herd control seasons, thereby no longer requiring public meetings on affected units and Natural Resources Board approval for each Zone T unit each year.

- Expand DNR authority to administer herd control seasons in all management units and eliminates the map identifying units as farm deer management units.

3. Finally this package involves modifications to the current Wisconsin Damage and Abatement Claims Program (WDACP):

- Modify the enrollment procedures for those currently participating in the WDACP.

- Modify the WDACP's harvest objective by shortening the time frame for meeting harvest requirements.

- Increases:

One expected impact is the increase in cost for law enforcement operations. Extra hunting days (Average 24 days for bow, 3 days for muzzleloaders, and 4 days for gun hunters) will equate into more days wardens will need to provide an active enforcement presence in the field. The additions of extra days for the 4 day December antlerless gun season will require 50% of the effort that is required for the enforcement of an October Zone T hunt (\$16866). The additional archery and muzzleloader days will require law enforcement wardens to increase their regular daily efforts when they would not traditionally be enforcing deer seasons. This effort would be approximately 20% of the daily effort to enforce a December 4 day gun hunt (24 extra days X \$843 = \$20,239).

#### FISCAL IMPACT – Herd Control Seasons

##### Revenue Reductions:

With any Zone T season comes the reality that free permits mean the loss of revenue from Bonus permit sales in the units conducting the Zone T hunt and the loss of the \$3 Hunter's Choice application fee. In 2000 this was estimated to be a loss of \$688,800 (229,600 applicants X \$3) in Hunter's Choice revenues and a loss of \$4,411,600 (Non-Resident 22,100 X \$20 & Resident 330,800 X \$12) in the sale of Bonus permits based on 1999 figures.

Revenue reductions from the 1999 level of \$6.1 million (when 451,000 bonus permits and 342,700 hunter's choice permits were sold) are anticipated to be similar to the 2000 estimate of \$5,100,400. However, over time, it is anticipated that revenue from hunter's choice permit applications and bonus permits will be restored to some extent as efforts to control the deer herd take effect.

##### Revenue Increases:

Over the next five years, it is assumed that with the success of the new herd control seasons, the revenues from the sale of hunter's choice permits and bonus antlerless deer permits will increase. With less units participating in Zone T and Earn-a-buck hunts, free antlerless permits associated with the herd control seasons will be reduced, bonus permits will be sold and the hunter's choice application system will be in effect. The estimated loss of \$5.1 million will be reduced to reflect a net gain. Based on a 6-year average, (1994 - 1999) 227,786 antlerless permits have been purchased annually by Wisconsin deer hunters, equating to a net annual revenue increase of \$2.7 million (227,787 X \$12). Hunter's choice permits over that same time period averaged a revenue increase of \$890,490 per year (296,830 X \$3). This will lead to a net annual decrease in revenue from 1999 levels of an estimated \$1.5 million, although 1999 was an unusually high year because of the need to issue extra bonus permits for deer herd control purposes. Eventually however, if the proposed season framework changes are effective in reducing the herd to goal, the number of bonus permits each year that are available will decrease, and revenues will return to levels common in years prior to Zone T hunts, estimated \$2,648,600 (Average of 1994-1995; Bonus: 139,000 X \$12, Hunter's choice: 326,000 X \$3).

##### Cost Reductions:

With the elimination of Hunter's Choice applications and decrease in Bonus permit sales, the amount of administrative costs to the Bureau of Customer Service and Licensing associated with printing, postage, freight, supplies and services, and DNR employee wages and fringes will be reduced. Costs associated with the issuance of bonus permits at ALJS terminal (materials and transaction fees) will also be reduced.

Currently, approximately 1/4 of the cost associated with the implementation of Zone T hunts is connected to the mailing of Zone T permits to individuals purchasing hunting licenses prior to May 1. By applying the formula and not going before the Board with a Secretary Order followed by Public Hearings, the Department could make the determination of which units would be in a Zone T or Earn-a-buck season prior to March 31 when licenses first become available. This would eliminate the need for a special mailing.

Also, by establishing a formula to determine whether a unit would fall into a herd control season (Zone T or Earn-a-buck) would eliminate the need to conduct public hearings. The elimination of public hearings would mean a significant reduction in the amount of staff resources and funds spent advertising and conducting these meetings.

##### Cost Increases:

###### Zone T:

One expected impact is the increase in cost for law enforcement operations. The extra 4 day antlerless season will equate into more days wardens will need to provide an active enforcement presence in the field. We assume that the deer herd control hunts will bring with them typical firearm deer season complaints from landowners, hunters and other enforcement agencies, and accidents. These hunts will impact no less than 120 wardens that work in management units open during this firearm season (based on 2000 Zone T estimates in which 99 units held a Zone T hunt). October is not usually a major opening. Therefore, the opening will conflict with work schedules in approximately 25% of the wardens affected. To provide satisfactory coverage to the affected areas, an additional 1200 hours of enforcement will be required (120 wardens X 25% X 4 days X 10 hours per day). An additional 600 hours of special conservation warden time will be extended during the October hunt (figures based on 50% of the totals from 2000 Zone T). The cost for the additional coverage above what is normally present during this 4 day period will include: \$23,412 (\$19.51 X 1200 hrs.) in permanent salary and fringe, \$6,000 in special warden LTE cost, and \$4,320 in travel expenses.

###### Earn-A-Buck:

There will be increased costs with the implementation of an earn-a-buck season, which include a slight increase in the cost of registration materials and increased staff time associated with education of hunters regarding the new regulations.



Another expected increase involves law enforcement. The earn-a-buck season will follow the same season format as a Zone T unit. This means that the costs will be similar to those described under the Zone T section above. However, due to the addition of regulations relating to the harvest of antlered deer and transportation of those animals, and the regulation of a hunt that is relatively new to many of Wisconsin's hunters, it is suggested that the warden workload will increase by 20% in those units conducting a Zone T hunt. It is not expected that 99 units will be in an earn-a-buck season in the same year, due to the formula and past history of Zone T success. These estimates are based on half the number of units as listed above therefore, it is estimated that 49 units will be affected corresponding to 60 wardens (60 wardens X 25% salary and fringe, \$3,600 in special warden LTE cost, and \$2,592 in travel expenses).

In addition, the earn-a-buck regulations and enforcement will equate to a 20% increase in effort during the regular bow, gun, and muzzleloader seasons (Gun Season (Traditional and December) \$26,142+ Archery and Muzzle loader \$39,454 = \$65,596).

FISCAL IMPACT – Modifications to the Wisconsin Damage and Abatement Claims Program.

Cost Reduction:

Since more deer will be removed earlier in the year prior to the damaging of crops, claims costs are expected to be reduced. There may be short term increase in administrative cost for the WDACP and WDNR Bureau of Wildlife personnel, as the number of shooting permits issued will likely increase, but this should be offset fiscally with the decrease in payments. Also offsetting the temporary administrative increase is the length of time spent conducting farm visits by WDACP staff will be lessened, since they will not need to verify damage levels.

## Notice of Hearing

### *Regulation and Licensing*

**[CR 00-142]**

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2) and 440.974, Stats., and interpreting ss. 440.972 and 440.973, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to amend ss. RL 133.01 (3), 133.02 (1) and 135.02 (1) (b), relating to home inspector examination and continuing education requirements.

### ***Hearing Information***

The public hearing will be held as follows:

Date & Time	Location
November 13, 2000	Room 179A
Monday	1400 East Washington Ave.
11:00 a.m.	MADISON, WI

### ***Written Comments***

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Monday, November 20, 2000** to be included in the record of rule-making proceedings.

### ***Analysis Prepared by the Dept. of Regulation and Licensing***

Statutes authorizing promulgation: ss. 227.11 (2) and 440.974

Statutes interpreted: ss. 440.972 and 440.973

Section RL 133.01 (3) is amended to state that the home inspector examination to be administered after **January 1, 2001**, will consist of two parts. Part I will consist of an examination on the Wisconsin statutes and administrative rules that relate to the practice of home inspection. Part II will consist of an examination relating to the principles and procedures relating to the practice of home inspection.

Section RL 133.02 (1) is amended to state that the Department determines the passing grade on Part I of the examination by using subject matter experts and following procedures outlined in the rule. This is the case, because the Department prepares Part I of the examination. However, since the Department may prepare Part II of the examination or may simply approve an examination prepared by a testing agency, the Department may determine the passing score for Part II by either using the procedures for Part I of the examination or by accepting the passing score recommendations of the testing agency.

Section RL 135.02 (1) is amended to remove "classroom" from the definition of "hour," as that term relates to continuing education programs and courses. This change will avoid a conclusion that was unintended when the current rule was drafted, that is that distance learning courses will not satisfy the continuing education requirements.

These proposed rules were developed with the advice and counsel of an advisory committee created pursuant to 1997 Wis. Act 81 and consisting of 6 home inspectors and 3 public members.

### ***Text of Rule***

SECTION 1. RL 133.01 (3) is amended to read:

RL 133.01 (3) On or after January 1, 2001, the department shall prepare and or approve the required examination a 2-part examination. Part I shall consist of an examination relating to the Wisconsin statutes and administrative rules that relate to the practice of home inspection. Part II shall consist of an examination relating to the principles and procedures that relate to the practice of home inspection.

**SECTION 2.** RL 133.02 (1) is amended to read:

RL 133.02 (1) To pass each examination part the applicant shall receive a grade determined by the department to represent the minimum competence to practice. The department shall determine the passing grade for part II of the examination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession. The department shall determine the passing grade for Part II of the examination in the same manner as for Part I or the department may accept the passing grade recommendation of a testing agency whose examination has been approved by the department.

**SECTION 3.** RL 135.02 (1) (b) is amended to read:

RL 135.02 (1) (b) “Hour” means 50 minutes of classroom instruction.

### **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### **Initial Regulatory Flexibility Analysis**

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

### **Copies of Rule and Contact Information**

Copies of this proposed rule are available without cost upon request to:

Pamela Haack  
Dept. of Regulation and Licensing  
Office of Administrative Rules  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

Telephone: (608) 266-0495

Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

## **Notice of Hearing**

*Veterinary Examining Board*

**[CR 00-144]**

Notice is hereby given that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1), Stats., and interpreting s. 453.065, Stats., Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber and amend s. VE 3.05 (1); to amend ss. VE 2.03 (1), 3.02 (2), 3.03 (intro.), 4.01 (4) (b) and 5.03 (1) (d); and to create ss. VE 2.01 (1m) and 3.05 (1) (b), relating to the computerized veterinary examination.

### **Hearing Information**

The public hearing will be held as follows:

Date & Time	Location
November 27, 2000 Monday 11:15 a.m.	Room 179A 1400 East Washington Ave. MADISON, WI



## Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Thursday, December 7, 2000** to be included in the record of rule-making proceedings.

## Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1)

Statute interpreted: s. 453.065

In this rule-making order, the Veterinary Examining Board amends its rules relating to the application deadline date. The current national examination for veterinarians is a paper and pencil examination. The National Board Examination Committee for Veterinary Medicine will computerize the national examination beginning in November, 2000. The Board must notify the examination service of eligible candidates 50 days in advance of an examination window. The rules currently require an applicant to complete his or her application at least 30 days prior to the next scheduled examination. Therefore, this rule includes the date as to when applications need to be completed.

## Text of Rule

**SECTION 1.** VE 2.01 (1m) is created to read:

VE 2.01 (1m) Prior to November 1, 2000, the board accepts as its licensure examinations the national board examination and the clinical competency test. On and after November 1, 2000, the board accepts as its licensure examination the north American veterinary licensing examination.

**SECTION 2.** VE 2.03 (1) is amended to read:

VE 2.03 (1) Passing scores for veterinary applicants for the national board examination and the clinical competency test, and for the north American veterinary licensing examination, shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point that represents minimum acceptable competence in the profession. The board may accept the recommendation of the national examination provider.

**SECTION 3.** VE 3.02 (2) is amended to read:

VE 3.02 (2) ~~Has Prior to November 1, 2000, has passed the national board examination and clinical competency test as evidenced by documents submitted directly to the board by the department's office of examinations or by the professional examination service. On or after November 1, 2000, has passed the north American veterinary licensing examination.~~

**SECTION 4.** VE 3.03 (intro.) is amended to read:

~~VE 3.03 Application procedures for veterinary applicants to take board examinations.~~ An applicant shall file a completed application with the board at least 60 days prior to the date ~~on which the applicant sits for of the scheduled examination.~~ All supporting documents shall be provided in English. An application is not complete until the board receives all of the following:

**SECTION 5.** VE 3.05 (1) is renumbered VE 3.05 (1) (a) and amended to read:

VE 3.05 (1) (a) ~~As Prior to November 1, 2000, an applicant may be granted a temporary permit before the board receives notice of successful completion of the national board examination and clinical competency test, if the applicant provides evidence that the applicant is either scheduled to take the national board examination and the clinical competency test for the first time, or is awaiting results of the national board examination and clinical competency test.~~

**SECTION 6.** VE 3.05 (1) (b) is created to read:

VE 3.05 (1) (b) On or after November 1, 2000, an applicant may be granted a temporary permit before the board receives notice of successful completion of the north American veterinary licensing examination, if the applicant provides evidence that the applicant is either scheduled to take the north American veterinary licensing examination for the first time, or is awaiting results of the north American veterinary licensing examination.

**SECTION 7.** VE 4.01 (4) (b) is amended to read:

VE 4.01 (4) (b) ~~Evidence Before November 1, 2000, evidence that the applicant has successfully completed the national board examination and the clinical competency test. On or after November 1, 2000, evidence that the applicant has successfully completed the north American veterinary licensing examination.~~

**SECTION 8.** VE 5.03 (1) (d) is amended to read:

VE 5.03 (1) (d) ~~Evidence Before November 1, 2000, evidence that the applicant has successfully completed the national board examination and the clinical competency test, or is scheduled to take the national board examination and clinical competency test for the first time, or is awaiting results of the national board examination and clinical competency test. On or after November 1, 2000, evidence that the applicant has successfully completed the north American veterinary licensing examination for the first time, or is scheduled to take the north American veterinary licensing examination for the first time, or is awaiting the results of the north American veterinary licensing examination.~~

## Fiscal Estimate

This rule decreases both agency revenues and expenditures in the Examination appropriation. The agency will no longer purchase examination booklets to administer the Veterinary Examination to candidates. The agency will also no longer pay to administer the examination. There will also be a loss in GPR-Earned revenue. There will be no local government costs.

## ***Initial Regulatory Flexibility Analysis***

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

## ***Copies of Rule and Contact Information***

Copies of this proposed rule are available without cost upon request to:

Pamela Haack  
Dept. of Regulation and Licensing  
Office of Administrative Rules  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

Telephone: (608) 266-0495

Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

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**NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,**  
**UNDER S. 227.19, STATS.**

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

**Agriculture, Trade and Consumer Protection (CR 00–104):**

Ch. ATCP 136 – Relating to reclaiming and recycling refrigerant for mobile air conditioners.

**Commerce (CR 00–115):**

Ch. Comm 8 – Relating to mines, pits and quarries.

**Commerce (CR 00–130):**

Ch. Comm 46 – Relating to risk screening and closure criteria for petroleum product–contaminated sites, the petroleum environmental cleanup fund, and interagency roles and responsibilities.

**Natural Resources (CR 00–90):**

Chs. NR 700, 716, 720, 722, 726 and 746 – Relating to sites contaminated with petroleum products discharged from petroleum storage tanks.

**Natural Resources (CR 00–96):**

Chs. NR 423, 428 and 439 and ss. NR 410.06, 484.04 and 485.04 – Relating to reducing ozone concentrations in the ambient air in southeastern Wisconsin by controlling nitrogen oxides (NO<sub>x</sub>) and Volatile Organic Compound (VOC) emissions.

**Natural Resources (CR 00–101):**

SS. NR 406.04, 407.03, 419.02, 422.02, 422.095 and 484.10 – Relating to the control of Volatile Organic Compound (VOC) emissions from auto body refinishing operations.

**Natural Resources (CR 00–102):**

SS. NR 25.02 (25) and 25.05 (1) (d) – Relating to commercial fishing for chubs on Lake Michigan.

**Public Service Commission (CR 00–113):**

S. PSC 132.02 (3) – Relating to the definition of “public utility” and sewerage systems’ access to railroad rights-of–way.

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.*

**Administration (CR 00-80):**

An order creating ch. Adm 43, relating to non-municipal electric utility public benefits fees.

Effective 12-01-00.

**Administration (CR 00-81):**

An order creating ch. Adm 44, relating to energy conservation and efficiency and renewable resource programs.

Effective 12-01-00.

**Administration (CR 00-82):**

An order creating ch. Adm 45, relating to low-income assistance public benefits.

Effective 12-01-00.

**Commerce (CR 99-122):**

An order affecting s. Comm 2.68 and ch. Comm 90, relating to the design and construction of public swimming pools.

Effective 12-01-00.

**Commerce (CR 99-123):**

An order affecting chs. Comm 81, 82 and 84, relating to the state of Wisconsin's Uniform Plumbing Code.

Effective 01-01-01.

**Transportation (CR 00-15):**

An order affecting chs. Trans 4 and 8, relating to the state public transit operating assistance program; to the use of fully-allocated costs in the competitive bid process; and to allocation of federal public transit assistance program funds to urbanized areas under 200,000 population.

Effective 12-01-00.

**Workforce Development (CR 00-67):**

An order repealing ch. HSS 245 and creating ch. DWD 18, relating to public assistance record retention.

Effective 12-01-00.

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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the **October 31, 2000 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

### **Agriculture, Trade and Consumer Protection** (CR 00-58):

An order affecting ch. ATCP 35, relating to the agricultural chemical cleanup program.  
Effective 11-01-00.

### **Financial Institutions-Banking** **Financial Institutions-Savings Institutions** (CR 00-45):

An order creating chs. DFI-Bkg 4, DFI-SB 19 and DFI-SL 21, relating to financial subsidiaries.  
Effective 11-01-00.

### **Health and Family Services** (CR 00-55):

An order affecting ch. HFS 10 and ss. HFS 68.04, 82.06, 83.06, 88.06, 89.29, 89.295, 105.47, 107.28, 124.255, 132.52 and 134.52, relating to eligibility and entitlement for the family care benefit, application for the benefit, cost-sharing requirements, standards for aging and disability resource centers and for care management organizations, protections of the rights of family care applicants and enrollees, recovery of correctly- and incorrectly-paid family care benefits, and requirements for hospitals, nursing homes, community-based residential facilities (CBRFs), residential care apartment complexes, and adult family homes to provide information to certain patients, residents and prospective residents and to refer them to aging and disability resource centers.  
Effective 11-01-00.

### **Insurance, Commissioner of** (CR 00-40):

An order amending s. Ins 6.59 (4) (av) and Note, relating to the exemption of attorneys seeking licensure for title insurance from certain testing requirements.  
Effective 11-01-00.

### **Natural Resources** (CR 00-30):

An order creating ch. NR 195, relating to establishing river protection grants.  
Effective 11-01-00.

### **Natural Resources** (CR 00-74):

An order affecting ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law.  
Effective 11-01-00.

### **Nursing, Board of** (CR 99-126):

An order creating s. N 8.10 (6) and (7), relating to case management and collaboration with other health care professionals by advanced practice nurse prescribers.  
Effective 11-01-00.

### **Pharmacy Examining Board** (CR 99-166):

An order creating s. Phar 7.09, relating to the automated dispensing of prescription drugs.  
Effective 11-01-00.

### **Revenue** (CR 00-78):

An order affecting ss. WGC 61.02, 61.04, 61.08 and 61.085, relating to the implementation and maintenance of the Retailer Performance Program (RPP) of the Wisconsin lottery.  
Effective 11-01-00.

### **Transportation** (CR 00-72):

An order affecting ss. Trans 327.03 and 327.09, relating to motor carrier safety requirements.  
Effective 11-01-00.

### **Transportation** (CR 00-94):

An order repealing and recreating s. Trans 134.06 (1) (d), relating to the administrative procedure for designating authorized special groups and issuing special group license plates.  
Effective 11-01-00.

### **Transportation** (CR 00-99):

An order amending s. Trans 276.07 (11), relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.  
Effective 11-01-00.

### **Workforce Development** (CR 00-46):

An order affecting ss. DWD 270.085 and 272.085, relating to student worklike activities that do not constitute employment.  
Effective 11-01-00.

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## SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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The following administrative rule revisions and corrections have taken place in October 2000, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### REVISIONS

#### **Agriculture, Trade and Consumer Protection:**

##### **Ch. ATCP 35**

- S. ATCP 35.01 (4) and (17m)
- S. ATCP 35.03 (3) (intro.), (f) to (h) and (6) (a) to (e)
- S. ATCP 35.04 (3) to (6)
- S. ATCP 35.06 (1) (a), (f) and (j), (4) and (5)
- S. ATCP 35.08 (5) (b) and (6)
- S. ATCP 35.14 (5), (6) and (30)
- S. ATCP 35.16 (1), (2) (a) and (c), (2m) (d) and (e), (6) (b), (c) and (d), (7), (8) and (9)
- S. ATCP 35.18 (1) (a)
- S. ATCP 35.22 (1), (2) (a) and (4) (a) and (b)
- S. ATCP 35.34 (entire section)

#### **Financial Institutions--Banking:**

##### **Ch. DFI-Bkg 4 (entire chapter)**

#### **Financial Institutions--Savings Institutions:**

##### *(Savings Banks)*

##### **Ch. DFI-SB 19 (entire chapter)**

##### *(Savings and Loan)*

##### **Ch. DFI-SL 21 (entire chapter)**

#### **Health and Family Services:**

##### *(Management, Policy, etc., Chs. HFS 1--)*

##### **Ch. HFS 10 (entire chapter)**

##### *(Community Services, Chs. HFS 30--)*

##### **Ch. HFS 68**

- S. HFS 68.04 (1)

##### **Ch. HFS 82**

- S. HFS 82.06 (2m)

##### **Ch. HFS 83**

- S. HFS 83.06 (7)

##### **Ch. HFS 88**

- S. HFS 88.06 (1) (a) and (4)

##### **Ch. HFS 89**

- S. HFS 89.295 (entire section)

##### *(Medical Assistance, Chs. HFS 100--)*

##### **Ch. HFS 105**

- S. HFS 105.47 (3)

##### **Ch. HFS 107**

- S. HFS 107.28 (1) (c)

##### *(Health, Chs. HFS 110--)*

##### **Ch. HFS 124**

- S. HFS 124.255 (entire section)

##### **Ch. HFS 132**

- S. HFS 132.52 (7)

##### **Ch. HFS 134**

- S. HFS 134.52 (5)

#### **Insurance, Commissioner of:**

##### **Ch. Ins 6**

- S. Ins 6.59 (4) (av)

#### **Natural Resources:**

##### *(Fish, Game, etc., Chs. NR 1--)*

##### **Ch. NR 46**

- S. NR 46.09 (entire section)
- S. NR 46.16 (1) (b)
- S. NR 46.18 (6)
- S. NR 46.22 (entire section)
- S. NR 46.23 (3)
- S. NR 46.30 (2) (a) to (c)

##### *(Environmental Protection--General, Chs. NR 100--)*

##### **Ch. NR 195 (entire chapter)**

#### **Nursing, Board of:**

##### **Ch. N 8**

- S. N 8.10 (6) and (7)

#### **Pharmacy Examining Board:**

##### **Ch. Phar 7**

- S. Phar 7.09 (entire section)

**Revenue:****Ch. Tax 61**

- S. Tax 61.02 (1) to (10)
- S. Tax 61.04 (1) (d)
- S. Tax 61.08 (11) (c) and (21) (c)
- S. Tax 61.085 (entire section)

**Transportation:****Ch. Trans 134**

- S. Trans 134.06 (1) (d)

**Ch. Trans 276**

- S. Trans 276.07 (11)

**Ch. Trans 327**

- S. Trans 327.03 (intro.) and (2)
- S. Trans 327.09 (6)

**Workforce Development:**

*(Labor Standards, Chs. DWD 270–279)*

**Ch. DWD 270**

- S. DWD 270.085 (entire section)

**Ch. DWD 272**

- S. DWD 272.085 (entire section)

**EDITORIAL CORRECTIONS**

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

**Agriculture, Trade and Consumer Protection:****Ch. ATCP 35**

- S. ATCP 35.08 (5) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Wisconsin Gaming Commission:**

**Ch. WGC 61 (entire chapter) was renumbered to be ch. Tax 61 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Ch. WGC 62 (entire chapter) was renumbered to be ch. Tax 62 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Ch. WGC 63 (entire chapter) was renumbered to be ch. Tax 63 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Health and Family Services:**

*(Community Services, Chs. HFS 30–)*

**Ch. HFS 68**

- S. HFS 68.03 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. HFS 70**

- S. HFS 70.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

*(Medical Assistance, Chs. HFS 100–)*

**Ch. HFS 105**

- S. HFS 105.16 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 105.255 (2) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. HFS 107**

- S. HFS 107.02 (3) (h) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 107.03 (13) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 107.09 (4) (v) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Nursing, Board of:****Ch. N 1**

- S. N 1.01 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. N 5**

- S. N 5.01 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. N 8**

- S. N 8.06 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Revenue:**

**Ch. Tax 61 (entire chapter) was renumbered from ch. WGC 61 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Ch. Tax 62 (entire chapter) was renumbered from ch. WGC 62 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Ch. Tax 63 (entire chapter) was renumbered from ch. WGC 63 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.**

**Transportation:****Ch. Trans 327**

- S. Trans 327.01 (2) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### **1. Agriculture, Trade & Consumer Protection**

(CR 00-58)

Ch. ATPC 35 – Agricultural Chemical Cleanup Program.

#### Summary of Final Regulatory Flexibility Analysis:

This rule will increase reimbursement payments to small businesses, and make it easier for small businesses to clean up spills of agricultural chemicals. The rule increases payments through:

- Expanding reimbursement eligibility to include costs that have been ineligible in the past.
- Expanding reimbursement eligibility to include a portion of costs that a responsible person incurred without complying with the cost control provisions of the rule.
- Expanding reimbursement eligibility to include payment to landowners for use of their land to landspread soil which contains agricultural chemicals.
- Modifying the contracting language to require contractors to be more accountability to the responsible persons and the agency.

#### Summary of Comments from Legislative Committees:

On July 27, 2000, this department transmitted the above rule for legislative committee review.

On August 2, 2000 the rule was referred to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. The review period expired on September 1, 2000 without action by the committee.

On August 8, 2000 the rule was referred to the Assembly Agriculture Committee. The review period expired on September 8, 2000 without action by the committee.

### **2. Department of Financial Institutions, Division of Banking (CR 00-45)**

Chs. DFI-Bkg 4, DFI-SB 19 & DFI-SL 21 – Financial subsidiaries.

#### Summary of Final Regulatory Flexibility Analysis:

Pursuant to s. 227.19 (3m), a final regulatory flexibility analysis is not required.

#### Summary of Comments:

No comments were reported.

### **3. Health and Family Services (CR 00-055)**

Ch. HFS 10— Relating to family care.

#### Summary of Final Regulatory Flexibility Analysis:

These rules apply to the following organizations: the Department of Health and Family Services, the Division of Hearings and Appeals in the Department of Administration, county agencies designated by the department to determine financial eligibility for the family care benefit; all organizations seeking or holding contracts with the department to operate an aging and disability resource center or a care management organization; and hospitals, nursing homes, community-based residential facilities, residential care apartment complexes and adult family homes in areas where an aging and disability resource center is under contract with the Department.

Some affected community-based residential facilities and adult family homes may be “small businesses” as defined in s. 227.114 (1) (a), Stats. These rules implement requirements, established in 1999 Wisconsin Act 9, that these facilities and homes provide certain information to residents and prospective residents and make certain referrals to an aging and disability resource center. The rules specify that the facility provide to prospective residents information, provided by the Department or by a resource center, obtain written verification that the information was provided and refer the prospective resident to the resource center. The Department has considered the methods for reducing the impact of these rules on small businesses specified in s. 227.114 (2), Stats., and has determined that establishing other standards for small businesses would be contrary to the statutory objectives that are the basis for the proposed rules.

No new professional skills are necessary for facilities and homes to comply with these requirements.

#### Comments of Legislative Standing Committees:

No comments were reported.

### **4. Insurance (CR 00-40)**

S. Ins 6.59 – The exemption of attorneys seeking licensure for title insurance from certain testing requirements.

#### Summary of Final Regulatory Flexibility Analysis:

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

#### Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

### **5. Natural Resources (CR 00-30)**

Ch. NR 195 – River protection grants.

#### Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small business; therefore, a final regulatory flexibility analysis is not required.

#### Summary of comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Environment and the Senate committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.



**6. Natural Resources (CR 00-74)**

Ch. NR 46 – Administration of the forest crop law and the managed forest law

Summary of Final Regulatory Flexibility Analysis:

Small private forest landowners and forest industries enrolled under the Forest Crop Law and Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood produce volume cut from their land. Existing compliance and reporting procedures are defined by statute.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Rural Affairs and Forestry and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

**7. Nursing (CR 99-126)**

S. N 8.06 (1m) – Prescribing limitations for advanced practice nurse prescribers.

Summary of Final Regulatory Flexibility Analysis:

These rules will have no economic impact on a substantial number of small businesses, as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments were reported.

**8. Pharmacy Examining Board (CR 99-166)**

S. Phar 7.09 – Automated dispensing of prescription drugs.

Summary of Final Regulatory Flexibility Analysis:

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments were reported.

**9. Revenue (CR 00-78)**

Ch. WGC 61 – Implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Summary of Final Regulatory Flexibility Analysis:

This proposed order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**10. Transportation (CR 00-72)**

Ch. Trans 327 – Motor carrier safety requirements.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

**11. Transportation (CR 00-94)**

S. Trans 134.06 (1)(d) – Authorized special groups.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

**12. Transportation (CR 00-99)**

S. Trans 276.07 (11) – Allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Summary of Final Regulatory Flexibility Analysis:

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments:

No comments were reported.

**13. Workforce Development (CR 00-46)**

SS. DWD 270.085 and 272.085 – Student worklike activities that do not constitute employment.

Final Regulatory Flexibility Analysis Summary:

The proposed rules have no significant impact on small businesses, as defined in s. 227.1 14(l)(a), Stats.

Summary of Comments of Legislative Standing Committees:

In response to concerns expressed at a meeting called by Senator Baumgart, the department submitted a germane modification to s. DWD 270.085(l)(b) limiting the days on which more than one hour of worklike activities is allowed to no more than a few consecutive days when school is not in session.

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## *EXECUTIVE ORDERS*

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*The following is a listing of recent Executive Orders issued by the Governor.*

**Executive Order 407.** Relating to a Proclamation of a State of Emergency.

**Executive Order 408.** Relating to the Development and Implementation of Electronic Commerce Methods for the Delivery of State and Local Government Services in Wisconsin.

**Executive Order 409.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Fire Fighters of this State Who Have Given Their Lives in the Line of Duty.

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***ACTION BY THE JOINT COMMITTEE FOR REVIEW OF  
ADMINISTRATIVE RULES***

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The Joint Committee for the Review of Administrative Rules (JCRAR) met in Executive Session on October 11, 2000 and adopted the following motion:

**Chapter PSC 160**

**Relating to Universal Service Support Funding and Programs.**

Moved by Senator Robson, seconded by Representative Grothman that, pursuant to s. 227.26 (2) (d), Stats., and for the reason set forth in s. 227.19 (4) (d) 6., Stats., the Joint Committee for Review of Administrative Rules (JCRAR) suspends all the words following “providers” in s. PSC 160.18 (10).

Motion Carried: 8 Ayes, 1 No.



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